IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1638 of 2000

with

SPECIAL CIVIL APPLICATIONS No. 2172 & 2174 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SWAMINARAYAN EDUCATION TRUST C/O SWAMINARAYAN MULTIPRPOSE
Versus
SECRETARY

Appearance:
MR MP PRAJAPATI for Petitioner.
Ms. Harsha Devani AGP for respondents No. 1 & 2.
Mr. T.R. Dave for respondent No.3.

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 28/06/2001

ORAL JUDGEMENT

In these Special Civil Applications, the petitioner has been challenging order dated 27.11.1979

Annexure "C" whereby respondent No.2 District Education Officer refused "NO OBJECTION CERTIFICATE" for the appointment of Second Head in the School run and managed by the petitioner-trust. Perusal of Annexure C, the impugned order, suggests that "NO OBJECTION CERTIFICATE" for appointment to the post of Second Head was refused for the reason of the post of Second Head having been abolished pursuant to Resolution dated 5.8.1989 passed by the Government in the Education Department. Thus, refusal to grant "NO OBJECTION CERTIFICATE" for the appointment to the post of Second Head in the School run and managed by the petitioner trust is because of the abolition of the said post. It need hardly be said that it is only when there is post of Second Head in the School, the request for grant of NO OBJECTION CERTIFICATE for appointment to the post of Second Head would arise because the availability of the post of Second Head would be the prerequisite and it is only thereafter the question of grant of NO OBJECTION CERTIFICATE for appointment to the said post would arise for consideration.

2. In view of the above, the petitions being devoid of merits are liable to be dismissed. However it would be open to the petitioner to seek relief in accordance with law as regards the Resolution abolishing the post of Second Head deleting Regulation 19(4). The petitions are dismissed. Notice discharged.

rmr. [N.G. Nandi, J.]

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